

<p style="text-align: right;">Page 1</p> <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6 YUCCA MOUNTAIN SCOPING MEETING</p> <p>7 PUBLIC COMMENTS</p> <p>8</p> <p>9</p> <p>10 REPORTER'S TRANSCRIPT OF PUBLIC COMMENTS</p> <p>11</p> <p>12 Taken at the Goldfield Community Center</p> <p>13 Highway 95</p> <p>14 Goldfield, Nevada</p> <p>15</p> <p>16 On Tuesday, May 4, 2004</p> <p>17 At 4:00 p.m.</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25 Reported by: Deborah Ann Hines, CCR #473, RPR</p>	<p style="text-align: right;">Page 3</p> <p>1 it's null and void, if it's not public land, the</p> <p>2 rights, it's no longer public land.</p> <p>3 The next thing I want to talk about is</p> <p>4 evidently DOE went and had some secret meetings with</p> <p>5 the Nye County Commission. The result of that was</p> <p>6 the Nye County Commission has got money from what</p> <p>7 they call the PETT fund.</p> <p>8 Another thing that I want to mention to you</p> <p>9 is the United States Constitution says that no</p> <p>10 government agency can hold anything in a state</p> <p>11 without the consent of the legislature. You guys did</p> <p>12 not go to the legislature. Did you go to the</p> <p>13 legislature and ask their permission to put the</p> <p>14 railroad in? That's my comment. That's my comment.</p> <p>15 Under the Constitution of the United States,</p> <p>16 if you want to write it down I'll give you the --</p> <p>17 here's the Constitution of the United States, right</p> <p>18 here. The government can't own anything without the</p> <p>19 consent of the legislature.</p> <p>20 There's a bombing range down here and</p> <p>21 everything else. You people went to the legislature</p> <p>22 to get permission to do this. You never went to the</p> <p>23 legislature to get permission to put this rail line</p> <p>24 in, so therefore, you're illegal under the</p> <p>25 Constitution. You're illegal under the Act.</p>
<p style="text-align: right;">Page 2</p> <p>1 JOE B. FALLINI, JR.: I'm part owner of the</p> <p>2 Twin Springs Ranch. Your railroad is going to go</p> <p>3 through 48 miles of my ranch, over the top of a whole</p> <p>4 bunch of water developments. And there's an</p> <p>5 allotment called the Reveille allotment. The</p> <p>6 Reveille allotment is a form of a right that's given</p> <p>7 by the Bureau of Land Management. We own all the</p> <p>8 water on the outfit and we own all the right-of-ways</p> <p>9 of the pipeline. There hasn't been one penny put in</p> <p>10 by the Bureau of Land Management on this outfit.</p> <p>11 First thing that I'd like to say is, number</p> <p>12 one, withdrew this land to public comment on public</p> <p>13 lands, and I've got a court case here that says</p> <p>14 whenever there's any rights attached to that land</p> <p>15 there's no such thing as public land no more. And if</p> <p>16 you want to see it, we can give to you. So number</p> <p>17 one, if you've made an application to the Bureau of</p> <p>18 Land Management on public land, there's no such thing</p> <p>19 as public lands.</p> <p>20 That's the Supreme Court case, about four or</p> <p>21 five of them actually. The court case is Bardon</p> <p>22 versus Northern Pac R. Co. There's the cite of it.</p> <p>23 So number one, people of the Department of Energy is</p> <p>24 going for public lands that's not public lands, so,</p> <p>25 therefore, that should be null and void. Because if</p>	<p style="text-align: right;">Page 4</p> <p>1 And then go down, let's talk about the NEPA</p> <p>2 process, the process where you're supposed to put</p> <p>3 public comment in. Under the NEPA process, it's a</p> <p>4 process where you have to go to the local government</p> <p>5 to get their input. Well, what I'm telling you is</p> <p>6 you people went and evidently had secret meetings</p> <p>7 with the Nye County Commission and you went and</p> <p>8 bought them off, and you bought them off to the tune</p> <p>9 of 53.75 million bucks. That is called PETT money,</p> <p>10 and I want to know what that stands for.</p> <p>11 So I don't think that's the process of NEPA.</p> <p>12 I don't think the process of NEPA is to come in, buy</p> <p>13 your commissioners off and then have them give secret</p> <p>14 meetings and then turn around and screw the ranchers</p> <p>15 who have the property.</p> <p>16 Now, if you've got 53.75 million bucks in</p> <p>17 Nye County, I want to know what the hell you have for</p> <p>18 the people that you've taken their property rights</p> <p>19 from. You take our property rights and I do not see</p> <p>20 any PETT funds for that. I see that PETT funds so</p> <p>21 you can buy off the NEPA process.</p> <p>22 This here is another court action we might</p> <p>23 answer in court. I'm goddamned tired of the stuff</p> <p>24 you people are putting on top. You never went to us</p> <p>25 one time to ask about our property rights. The</p>

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1 county commissioners didn't go to us because you went  
2 and give them 53.75 million bucks. If you tell me  
3 that it isn't buying off, I'm going to write the  
4 attorney general on this. I want to know how come  
5 you're going in and paying the commissioners money to  
6 sell us people out that have property rights. I  
7 don't think it's right at all.

8 Another thing that I want to talk to you  
9 about, the top of this damn thing, if you look at it,  
10 right in your own information you said that if they  
11 don't have the railway it's going to take 53,000  
12 legal loads. 53,000 legal loads in the cost of that  
13 railroad in '02 money is \$16,600 per load that you  
14 can haul it from Caliente to the damn Test Site  
15 repository.

16 You tell me that you can't get trucking  
17 outfits for \$16,000 a load? You don't wreck any of  
18 the acreage out there, you don't go through  
19 wilderness study areas, and you don't take people's  
20 property private rights and you don't destroy the  
21 ground and you don't tear it up and you don't take  
22 acre feet of water.

23 You said on that it takes 710 acre foot. I  
24 don't know what water is all about. The BLM for  
25 years has been trying to steal our water rights, and

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1 it's real interesting that everybody that ever fought  
2 the Bureau of Land Management in court is where the  
3 railroad goes. It goes over the top of us, it goes  
4 over the top of Clifford. It goes over the top of  
5 Hage. It goes over the top of Ben Colvin, and I want  
6 to know how come it just happens to be all the people  
7 that fought the Bureau of Land Management in court.  
8 Can you answer that?

9 Okay. Now, if you're going to haul this  
10 53,000 loads and divide in the cost of the railroad a  
11 couple of years ago without the cost of inflation and  
12 so on, you could pay a trucker \$16,000 a load, a  
13 legal hauler. Now, wouldn't it be much better to pay  
14 the trucker? I know he can make two trips in a day  
15 and you don't tear up all the country, you don't take  
16 people's private property rights, there's no  
17 environmental impact.

18 All I'm saying is that you went around the  
19 NEPA process by buying the commissioners off. I'm  
20 going to talk to the attorney general about that,  
21 because I know that's just illegal as hell, because  
22 you guys come in and give them that money so they'll  
23 screw us. They never even notified us about your  
24 meetings.

25 Another thing I want to know is how many

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1 private meetings did you have with the Nye County  
2 Commissioners. Where did this 53.75 million bucks --  
3 hell, they've got it spent already. They're telling  
4 you what they're spending it for. Here's the whole  
5 damn thing. We can take this piece of paper and you  
6 can see just exactly what you're doing. You're going  
7 through the NEPA process, taking us, completely  
8 forgetting about us. You give them enough money they  
9 didn't contact us. They should have contacted us.  
10 You should have contacted us. You know we have  
11 private property rights out there but you didn't do  
12 that.

13 I've been in court before on a lot of these  
14 issues. I've been in a hell of a lot of court cases.  
15 I guarantee you you guys are going against this  
16 process and buy all these people off, try to get them  
17 not to get our comments. I'm damned pissed off about  
18 it.

19 Another thing, you go right over the top of  
20 a whole bunch of our water deposits. I don't know  
21 whether you're going to fence it or not. If you're  
22 going to fence it then every one of those water holes  
23 that you go by or over the top of you violate my  
24 grazing capacity on each side. So if you're going to  
25 put the damn thing in there, there better be a

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1 process so we can get water on both sides under our  
2 name, not Abbey's name, because we own the water  
3 right.

4 I'm so mad about this thing I can't believe  
5 it. I can't believe you people have the gall to go  
6 out there and put this thing over the top of us and  
7 never even bother to talk to us. Believe you me, I  
8 want to say this all together, we're going to see you  
9 guys in court. The minute you come over our  
10 allotment, you're into a court battle, people. We  
11 will hold it up for a while. I've been through those  
12 kind of court battles, I know.

13 The next time you try to pull some funny  
14 stuff on us it would behoove you to go talk to the  
15 people who own the rights instead of going and buying  
16 the commissioners off. You bought the commissioners  
17 off in Nye County. You bought the commissioners off  
18 in Caliente, in Lincoln County, and that is not the  
19 NEPA process.

20 I want another answer from you people what  
21 the NEPA process is. It's supposed to be a hearing.  
22 You know damn good and well you didn't want anybody  
23 in this room to hear what I'm telling you, because  
24 when you got down to the nitty-gritty, we're not  
25 going to go under easy.

2 (Pages 5 to 8)

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1 If you can go ahead and give Nye County  
2 53.75 million bucks and they don't own a damn thing  
3 out there, I want to know what you're going to pay  
4 the people that own the property. I'm done.

5 My address is Twin Springs Ranch. The  
6 address is [REDACTED]  
7 Telephone is [REDACTED]

8 Another thing that I want to add in here,  
9 we've done a water development that's called Black  
10 Springs Pipeline. And they claim it's an old  
11 archeological site. And we had to back a dump truck  
12 up to there because they would only let us disturb  
13 ten feet right down where our spring was. Now you're  
14 going to run a damn railroad over the top of it. How  
15 do you account for that?

16 You're going to go through wilderness study  
17 areas. You're going to do all this stuff. And I  
18 don't know how you people think you have the power to  
19 do that. I'll tell you right now, you don't. The  
20 next time you come to trump on people's private  
21 property rights, I surely hope you come by and at  
22 least talk to the people, not buy them off through  
23 the commissioners. I want a copy of that.

24 ANNA FALLINI: I'm a little bit puzzled by  
25 some answers you gave. Aside from the question that

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1 about that. That was not the way that we should have  
2 been notified about this.

3 We're curious about when the Caliente  
4 corridor became a preferred corridor versus just a  
5 feasible corridor.

6 ROBIN SWEENEY: In December of last year.

7 ANNA FALLINI: In December of 2003 that's  
8 when it became preferred versus feasible, okay. That  
9 was kind of a question that we had.

10 We were just kind of curious why -- it seems  
11 to us that this was preferred from the beginning,  
12 that you guys had already chose this before it is  
13 even -- and I have some other things like this sheet  
14 I made up here that compares things like including  
15 miles, months to build, you know, costs, everything.  
16 Every single one of these things, private land that's  
17 affected, public land that's affected, acres that's  
18 affected, it's the maximum with the Caliente  
19 corridor.

20 So I cannot possibly imagine why you would  
21 rather spend \$880 million instead of \$283 million on  
22 a rail line that travels 344 miles instead of 101  
23 miles and takes 46 months to build versus 40 months.  
24 You know, to me the logic is just not there. That's  
25 our taxpayer dollars. I think the public should be

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1 you dodged completely, I still would like some  
2 answers to. If you look at our correspondence, first  
3 of all, question number one you kind of dodge in your  
4 response here. You're saying that the corridor is  
5 including the Caliente corridor as described and  
6 associated. DOE accepted all comments on the draft  
7 and you guys accepted comments, you did all this, but  
8 the question still remains why were we not notified.  
9 Our comments didn't get in there. Sure you accepted  
10 some comments, but they weren't ours. We weren't  
11 notified. So I would like to know why we weren't  
12 directly notified. Can you answer that right now for  
13 me? My comment is that we were never directly  
14 notified.

15 You guys are expecting us to read a National  
16 Register as an affected party. It should be your  
17 responsibility to notify us directly. I feel  
18 strongly about that. Okay, it is not our  
19 responsibility to go reading the Federal Register to  
20 find out what's going to affect us. You guys are the  
21 ones that are imposing onto us. You guys should be  
22 the one notifying us. We shouldn't read about it in  
23 the local newspaper. We shouldn't have to go  
24 flipping through the many, many pages of the Federal  
25 Register to hear about it, okay. I'm ticked off

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1 notified about this. I think this is an absolute  
2 fleecing. I mean, this is ridiculous.

3 In your Federal Register you guys are  
4 talking about that one of the decisions was because  
5 it didn't have a lot of land use conflict. Well, of  
6 course you didn't come up with a lot of land use  
7 conflict, you never notified the land users. I mean,  
8 of course this route looked feasible because you  
9 didn't have any conflict. We weren't going to be  
10 able to protest. We didn't know about it. So either  
11 that was real convenient for you guys or you just  
12 kind of missed it, and that I definitely want to  
13 note.

14 The problem is, the biggest problem here is  
15 that we weren't involved in this during the planning  
16 stage, like we should have been. This could have  
17 been avoided, a whole bunch of stuff. Because you  
18 can't answer questions directly, I'll be reissuing  
19 these in a letter format also, because I just need  
20 better answers.

21 Just to give you kind of a background of me,  
22 I have an engineering degree. I'm pretty good with  
23 numbers. So I started running numbers on this  
24 project, okay, and I started thinking, well, you guys  
25 never -- I looked over the summary, I looked over

3 (Pages 9 to 12)

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1 unbelievable amounts of stuff. I never once saw in  
2 there a scenario of Caliente railroad, or the  
3 Caliente stop, where it comes to a stop in Caliente  
4 for legal haul trucks. Why? Why was that scenario  
5 never -- you guys did a railroad to heavy haul. You  
6 guys did a railroad to railroad. Why wasn't railroad  
7 to legal haul ever done?

8 Taking it to Caliente, putting it on legal  
9 haul trucks and driving to Yucca Mountain, why was  
10 that scenario never evaluated? Do you know why?  
11 Because when I ran the numbers, when I ran the  
12 numbers at \$880 million for the live cost of this,  
13 and you guys are claiming that, these are your  
14 numbers, 53,000 loads of legal haul is what it would  
15 take, at 53 loads, \$880 million, it would cost -- you  
16 would have to spend \$16,000 a load to equal that cost  
17 of that rail line.

18 And so I got to thinking maybe you guys  
19 aren't capable because maybe the casks won't be able  
20 to be hauled on legal haul. No, that's not true  
21 because, as a matter of fact, in your own stuff you  
22 guys are talking during the railroad construction  
23 setting up a system where you actually do take it  
24 from Caliente, put it on legal haul trucks and haul  
25 it to Yucca Mountain. You're going to have the

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1 capability. You're doing it during the construction.  
2 I'm wondering why that wouldn't be a  
3 scenario. You would have no environmental impact  
4 problems. You wouldn't have to be above the  
5 highways. You wouldn't be interfering with the  
6 public lands. You wouldn't be interfering with  
7 private lands.

8 ROBIN SWEENEY: I got your point. Your main  
9 concern is we should include a feasibility and a cost  
10 study comparing --

11 ANNA FALLINI: Absolutely. Absolutely. You  
12 know what, your EIS really lists nothing. You know,  
13 as far as you guys in all your records say it's  
14 already safe to do it. In here you guys brag about  
15 being without incident. I really hope this is --  
16 because I can't imagine that it could cost \$16,000 to  
17 haul a single load from Caliente to Yucca Mountain.

18 ROBIN SWEENEY: Anything else?

19 ANNA FALLINI: As far as right now, until I  
20 hear what you guys talk about -- are you going to  
21 be -- are you guys giving a presentation?

22 ROBIN SWEENEY: No. No, we have an  
23 interactive session.

24 ANNA FALLINI: This is the way it's going to  
25 be?

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1 ROBIN SWEENEY: Posters with video around  
2 and we'll also provide you with additional  
3 information.

4 ANNA FALLINI: I guess I just can't believe  
5 that we were not included in this planning phase. I  
6 don't know how that happened, but I'm pretty  
7 disappointed that this is what it's come to.

8 Here it says that at this stage in the  
9 decision making the department believes it has  
10 incorporated all practicable mitigation measures.  
11 How do you feel that you've done that? Because  
12 standing from where I'm standing it doesn't look like  
13 you guys have incorporated all practicable mitigation  
14 measures when you haven't even notified the land  
15 users. So that baffles me, absolutely baffles me.

16 Again in your Federal Register, the April 8,  
17 2004, you say in here, The department considered  
18 potential land use conflicts. It says here right in  
19 your Federal Register. How did they consider land  
20 use conflicts when we were never notified? I mean,  
21 if you guys are referring to Vegas, guess what,  
22 they're not the only people in Nevada.

23 In here you guys list the different wildlife  
24 ranges, the air force, all different areas that would  
25 interfere or cause a conflict with other choices of

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1 rail lines. You guys didn't put in here that by  
2 going the Caliente route you go through two  
3 wilderness study areas. That's not in here. So this  
4 seems to me like it's a little bit biased. You know,  
5 we can't go through because we go through the Desert  
6 National Wildlife. We can't go this way because it  
7 goes through the air force.

8 Well, if you're going to be using that for  
9 your defense of Caliente, you better put those  
10 wilderness study areas in, because, boy, they've been  
11 a burden on us. We've had to go around them. We had  
12 to do things according to law, you guys should too.  
13 And it is law. You better be talking to Congress if  
14 you want to change those wilderness study areas,  
15 because that's what it took to get it out there.

16 The other thing is the rail corridor, this  
17 rail line goes directly over a spring that we call  
18 Black Springs, okay.

19 ROBIN SWEENEY: What section is it?

20 ANNA FALLINI: Near 50 east and 4 north,  
21 Black Springs. It's published on almost every map,  
22 Black Springs. The issue I have with Black Springs  
23 is it was an archeological site. So even though  
24 that's been a water establishment privately owned by  
25 us, we had to do some work on it. We were given a

4 (Pages 13 to 16)

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1 limit of ten foot wide, no dirt dumping, bringing in  
2 everything. We incurred a huge cost for additional  
3 work we could have done if we just went and worked on  
4 this spring without limitations -- huge cost.

5 BLM is the one that imposed those  
6 restrictions on us. Suddenly it's okay for you guys  
7 to build a railroad directly over the top of the  
8 exact same area? I'm pretty sure that's going to  
9 take more than ten foot.

10 The double standards here are unbelievable.  
11 They apply to us but they don't seem to apply to any  
12 government agency. And we're getting ticked off  
13 about it because it's the government agencies that  
14 are imposing them on us, and we're working around  
15 them, we're doing our best to stay within the  
16 regulations and the laws, and it ticks us off that  
17 another government agency can come and just  
18 completely ignore all the things that we're forced to  
19 accept.

20 I need to explain something to you, because  
21 this is something that most people don't understand.  
22 I'm going to explain why this is a huge impact on our  
23 allotment. Our allotment is a water based allotment,  
24 okay. What this means is that all of our grazing  
25 permits are established on the basis that we own the

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1 establishments. If you fence off an area that has  
2 water on one side, you're eliminating grazing on any  
3 area across the fence that doesn't have water, which  
4 I mean in our allotment, look, you're going right up  
5 through the middle of our valley. You're cutting it  
6 right in half. And we only have water -- you know,  
7 we're only going to end up having water on one side  
8 or the other. So aside from the fact that it's our  
9 private water rights, you're splitting up our grazing  
10 also.

11 Another water issue here is you're saying is  
12 there any way we can work it out. Well, I'll tell  
13 you what, the BLM has regulations now where because  
14 they no longer issue section 4s for water  
15 developments or improvements, so if we were to move  
16 those waters say on the either side of the rail line,  
17 BLM would own half of it. We are not willing to do  
18 that ever.

19 That is what's called a cooperative  
20 agreement. Water establishments and improvements  
21 made now, thanks to the cooperative agreement, are no  
22 longer under what's called a section 4, where you  
23 would still, if we were to move this water however  
24 many hundred feet, we would still own the water.  
25 That's not how it works. The BLM will take,

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1 water, which we do, okay.

2 So what happens is if you go over the top of  
3 our water rights and you take that away from us,  
4 you're taking our grazing away as well. It's not  
5 about this corridor, it's about that too, but it's  
6 not mostly about that. The bigger issue we have here  
7 is our water, private water. Because if you take our  
8 water away, you take our grazing permit away because  
9 it's a water based allotment.

10 So by taking these waters, and you will be  
11 going over the top of, which they're privately owned  
12 water, you take the water, you take our grazing. And  
13 don't you think that the BLM doesn't know that,  
14 because they do. And don't you think that that's not  
15 something that they want, because they do. I want  
16 that on the record.

17 I want to know, because I don't feel and my  
18 family doesn't feel it's a coinsurance that this  
19 railroad goes 300 miles out of the way, or 200 and  
20 some miles out of the way to go through all of the  
21 allotments that have had a conflict with the  
22 ranchers, between the ranchers and the BLM. It  
23 cannot be a coincidence. In my mind there's none.

24 Now, the BLM no longer gives section 4s for  
25 water establishments, for water improvements or

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1 basically steal, in my opinion, half of our water.  
2 And we will never agree to that. It's going to be  
3 considered a water improvement, and that will never  
4 ever be an option on our allotment, because our  
5 allotment, like I said, is water based. You'll be  
6 making a big mistake by going right over the top of  
7 it.

8 This ranch has been fighting for our water  
9 rights against the BLM for many, many years. One  
10 example of this is that ten years ago the BLM  
11 requested that we take an allotment map and label  
12 every water establishment that we have on that map.

13 We spent \$60,000 and an amazing amount of  
14 time putting this map together. We submit it to the  
15 BLM, we don't hear anything back on it until  
16 suddenly, boom, all of a sudden there's a hundred  
17 water applications on all of our water. We contacted  
18 BLM thinking, sure enough, they used our map that  
19 they required us to make to file our water hoping we  
20 wouldn't catch it.

21 Boy, they've been after our water for years  
22 and years and years. So far they haven't been able  
23 to get it. This is one way I'm sure they're trying  
24 to get it. It's hard for me to believe that that's  
25 not a part of this.

5 (Pages 17 to 20)

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1 Another thing is I was wondering who your  
2 civil engineer is who looked at this topography.

3 ROBIN SWEENEY: We haven't started that  
4 process.

5 ANNA FALLINI: Well, you probably should  
6 have started that process going up that valley before  
7 you put it up that valley, because that's the worst  
8 topography. As an engineer I'm telling you, the cuts  
9 and fills and the culverts, you guys picked a bad  
10 route going through that valley.

11 ROBIN SWEENEY: Because of the grade?

12 ANNA FALLINI: Yes, the grades, the washes.  
13 I mean, you guys have got problems going through that  
14 valley. I've never done any soil testing there, but  
15 just knowing what I know about construction and about  
16 filling and all the culverts and the watersheds, the  
17 problems you guys are going to have, it's going to be  
18 a lot more than you think. You'd probably want to  
19 get out there and take a look at that because it's  
20 going to cost you. It's Reveille Valley.

21 Even though only so much of this is going to  
22 be withdrawn, we know from experience that anything  
23 taken away from the private property owners or the  
24 allotment owners we'll never get back once it's taken  
25 away, ever. And that's from experience, because if

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1 has filed on some of my water that are on my  
2 allotment, and they can't prove beneficial use, so  
3 why do think that? That's my question.

4 And also are they going to fence it? If so,  
5 are they going to be 100 feet or 200 feet? And if  
6 they do fence it, are they going to have an underpass  
7 or something to get across the railroad for the  
8 cattle to access the water?

9 TY BROWN: On behalf of the Western Shoshone  
10 tribe, I myself am Paiute/Shoshone, I'm down here in  
11 Goldfield, I'm on the walk and run. It's a spiritual  
12 run to support the show that we're against the  
13 transfer of nuclear waste in Nevada.

14 I'm against it because this land has been in  
15 my family for generations, and we're a native in this  
16 land. I just feel that, you know, like we all live  
17 here and we all got to deal with it. I know in the  
18 long run it's not going to work out for our benefit.

19 DARLENE GRAHAM: I'm from the Duckwater  
20 Shoshone Indian reservation. I would like to say  
21 that what they're doing is they're bringing the  
22 railroad through our Shoshone land, the Newene  
23 Sogobia Pava'a Ma.

24 And that's what we're doing, we're  
25 protesting the nuclear waste coming onto our land,

Page 22

1 you want to look at what's been taken away from us  
2 before, DOE took that bombing range and we never got  
3 that back either.

4 My dad always said it takes 130 years to  
5 build up a ranch like this but it only takes one  
6 strike of the bureaucrat's pen to completely wipe it  
7 out.

8 I'm Anna Fallini from Twin Springs Ranch,  
9 Reveille allotment. Our phone number is  
10 [REDACTED] Our address is [REDACTED]  
11 [REDACTED] I think your civil engineer  
12 should come out and look at the topography of this  
13 rail route and take a look at it so they can  
14 understand the process they're going on this route.  
15 I'll be more than happy to take them out to show  
16 them.

17 BEN COLVIN: Colvin Cattle Company. I was  
18 just wanting to put the Department of Energy on  
19 notice that I have the grazing allotment between here  
20 and Vegas, and it's going across there.

21 And also I'm in the United States Court of  
22 Federal Register Claims, and I just want you to know  
23 I have got property rights out there, and I want them  
24 to be protected, access to and from my water. I own  
25 the water rights on my allotment, and the government

Page 24

1 because way back in 1863 the Treaty of Ruby Valley  
2 was signed. It was a treaty of friendship. We  
3 didn't give our land away. It's still our land.

4 And what we're doing is we're following the  
5 footsteps of our ancestors, and this is where they  
6 used to go where the food was from way down in  
7 California. We're going to follow the footsteps of  
8 our ancestors.

9 And I feel it's very important that they  
10 don't bring the railroad through because they're  
11 destroying our mother earth. And our mother earth  
12 provides us with everything, and they're destroying  
13 everything. And it's destroying our past and it's  
14 going to affect everybody, not just the Native  
15 Americans, but it's going to affect everybody in the  
16 valley.

17 So that's one of the things we're doing is  
18 protesting Yucca Mountain. And we are going to go  
19 down to the Test Site there, and we should arrive  
20 there Saturday morning at the Test Site. And then we  
21 usually go across to the Test Site, because that's  
22 our land. We have people going to the Test Site.

23 They asked for, when I went across, they  
24 asked for my permit, the Shoshone permit. I said, I  
25 don't need a permit because this is my land. I'm

6 (Pages 21 to 24)

Page 25

1 Shoshone. And they said, Oh, okay. They took down  
2 my name and that was it. So he agreed it's my land.  
3 DR. BONNIE EBERHARDT BOBB: I'm the  
4 environmental director of the Yomba Shoshone tribe.  
5 As the environmental director of the Yomba Shoshone  
6 tribe I've participated in a lot of the meetings of  
7 the Nuclear Regulatory Commission, NRC. They made  
8 efforts to give workshops to try to educate us about  
9 the whole process of Yucca Mountain and what's going  
10 to happen with licensure.

11 And they had some limited discussions of the  
12 railroad transportation lines, but what I have never  
13 seen is whenever I see one of your posters about the  
14 2002 EIS there's mention of tribes and tribal  
15 involvement, but true consultation, I don't know  
16 about the Department of Energy's consultation policy,  
17 but true consultation truly never occurred, at least  
18 with the Yomba Shoshone tribe.

19 There has never been a representative of the  
20 Department of Energy who's come to us. We have heard  
21 that there's no way that any Indian tribe has ever  
22 received effective tribal studies. While around us,  
23 all the counties around us, nine counties in Nevada  
24 and the surrounding areas have received effective  
25 tribal studies. We live in those counties. The

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1 tribes, the reservations are located within those  
2 counties. We're independent. We're on the state  
3 budget, but we have never been given effective tribal  
4 status.

5 And it's kind of deplorable that no one has  
6 reached out to us. If you had reached out to us, you  
7 must consider that it cannot be truly meaningful  
8 conversation because a lot of the folks there have an  
9 oral tradition, and they receive an EIS or an  
10 information packet or just a letter, and they become  
11 so overwhelmed with the words that they don't know  
12 how to respond. They don't know what the words mean.

13 And I think you must admit that a lot of the  
14 EIS is written so that the ordinary person really has  
15 to go through a lot of problems to understand it. We  
16 have a very short time to respond. We only have  
17 tribal meetings maybe once a month, maybe sometimes  
18 not. We have to have time behind us to make any kind  
19 of a formal statement. We don't have a time frame to  
20 do that.

21 But to my knowledge we have never been  
22 consulted about any of the railroad transportation  
23 routes through the DOE. I would say that being 12  
24 miles from one of the proposed transportation routes  
25 put us in a precarious position. Our water table,

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1 our air, we're still in a precarious position. We're  
2 north of the Nevada Test Site and north of Yucca  
3 Mountain.

4 That having been said, the reservation is  
5 treaty land. That's Western Shoshone treaty land  
6 under the Ruby Valley Treaty of 1863. That treaty is  
7 in litigation as we speak right now in D.C. in the  
8 Federal District Court.

9 We're in there to show that land title has  
10 never been taken. The treaty of Ruby Valley was very  
11 different from most treaties. That treaty ceded no  
12 land. It was one of the fee that ceded no land,  
13 because at that time in 1863 the Civil War was going  
14 on, folks needed to go through to what is now Nevada  
15 to get the gold, and they needed to get it back in  
16 time for the Civil War.

17 The Western Shoshone put out the pony  
18 express in one year. The Shoshone were fighting  
19 everybody that was coming through and nobody could  
20 get through. The treaty starts out, Peace and  
21 friendship is hereafter between the people and  
22 government of the western bands of Shoshone Indians  
23 and the people and government of the United States.

24 The treaty was so that the people could get  
25 through unmolested. The treaty gave one rail line,

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1 and that was the rail line that went from coast to  
2 coast. And it went through Battle Mountain. That  
3 was the only rail line. And it says in its tributary  
4 it's an international rail line. There was never  
5 anything said about any other rail line or anything  
6 else, yet everybody seems to think that the land was  
7 ceded and it was not.

8 The Yomba reservation, in 1934, people were  
9 starved because on the treaty lands they came and  
10 killed all the animals, they took all the trees.  
11 There was nowhere for people to go. They were  
12 starved. There was forced marches. People had no  
13 choice but to go onto lands.

14 So the Western Shoshone reservation on its  
15 own treaty land is opposed to any such action without  
16 proper consultation that is meaningful and that has  
17 the involvement of all Indian tribes that are  
18 affected, and we certainly are affected.

19 There's no baseline study of health now.  
20 And I just learned today that the Carlin corridor is  
21 not necessarily going to be on this EIS, but whenever  
22 I've gone to other meetings on my own I've found out  
23 that they say that the Carlin EIS will also be in  
24 this particular EIS. Now I'm really confused because  
25 I don't know what's happening.

7 (Pages 25 to 28)

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1 But I think if I don't know what's  
2 happening, and I'm the environmental director, and  
3 I'm really involved, and my husband is the person  
4 who's directing the Western Shoshone, that I should  
5 be one of the people who's really on top of it, and I  
6 just don't know what's happening. And I know  
7 absolutely nothing. And that's the reason why I'm  
8 here.

9 And I look forward to you coming to the  
10 reservation. I look forward to the Department of  
11 Energy coming to the reservation because we're  
12 willing to talk meaningfully. I look forward to the  
13 Department of Energy coming to the Western Shoshone  
14 Nation through its government, the Western Shoshone  
15 National Council, because we're willing to talk to  
16 you. And we have asked for the negotiations.

17 So once again I will extend that invitation.  
18 Please contact us. Please let us know what you're  
19 doing. We're not the public. We're not public.  
20 We're in a different category of people  
21 differentially affected.

22 HOLLY BRADSHAW: I just think we should have  
23 a little bit in every single state. That way we  
24 don't have it all in one state. That way we don't  
25 have a big bang. You know the big bang theory? If

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1 established in the effected counties.

2 So it's a great concern to us because of the  
3 nature of the way scoping is being done for this  
4 proceeding. That is, the scoping statements are  
5 essentially private statements made by private  
6 individuals through a DOE official and a court  
7 reporter; and therefore, we do not have access to  
8 that information to assist the State in preparing the  
9 best possible scoping comments to be submitted in  
10 accordance with the extended deadline, which is now  
11 June 1st.

12 Second statement that I'd like to make today  
13 is not a prepared statement. It has to do with a  
14 request for information to be presented in the draft  
15 EIS and hopefully to be presented at the earliest  
16 possible date before that, and that is all of the  
17 information that DOE used in preparing the  
18 December 23rd letter from Margaret Chew to Governor  
19 Guinn, the December 26 or 29th, I can't remember the  
20 date now, Federal Register notice giving advanced  
21 warning of the preference for the Caliente rail  
22 corridor, and of course the April 8th Federal  
23 Register notice record of decision on the mostly rail  
24 scenario, and the notice of intent, NOI, on the  
25 selection of the Caliente rail corridor.

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1 you had a little bit in each space, I think that  
2 would be so much safer, because if something were to  
3 happen, then it wouldn't be as bad, you know. But if  
4 you had it all in one spot and something did happen,  
5 it would be bad.

6 BOB HALSTEAD: My statement today is a  
7 continuation of the statement that I made yesterday  
8 in Amargosa Valley on behalf of the State of Nevada  
9 Agency for Nuclear Projects.

10 My first comment is a comment about the way  
11 in which the transcripts of statements taken at these  
12 meetings will be handled. It's our understanding  
13 that to date DOE has not made a formal decision on  
14 how quickly these statements will be transcribed and  
15 how these statements will be made available to the  
16 public.

17 On behalf of the State of Nevada I'm making  
18 a request today that the verbatim transcripts of the  
19 statements made at all of these scoping meetings be  
20 made available as soon as possible, preferably posted  
21 electronically on one of DOE's internet sites on one  
22 of their websites. Also for the benefit of those  
23 people who don't have computer access, hard copy  
24 should be made available at the DOE reading room in  
25 Las Vegas and at the other reading rooms that DOE has

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1 We'd like to request that all of the  
2 specific information related to any comparative  
3 analyses for the five rail corridors identified in  
4 the FEIS that were the basis for the decisions that  
5 were announced in the Federal Register, that all of  
6 that information be summarized in the draft EIS, both  
7 the sources of the information, the decision criteria  
8 and the specific data that were used to compare the  
9 five rail corridors.

10 I guess I'll make this comment number three  
11 a separate comment. We would request that all of the  
12 data, all of the technical data on the five potential  
13 rail corridors going back to the 1991 study of the  
14 Caliente corridor, and including the 1996/1997 MK  
15 studies, in particular the detailed conceptual plans,  
16 the alignments for the five rail corridors, and most  
17 importantly the vertical profiles that were generated  
18 for the five corridors. That data needs to be made  
19 available as soon as possible, preferably before the  
20 end of the scoping period so that it can be used by  
21 the State in making its final scoping comments to  
22 assist DOE in the preparation of an EIS.

23 We would hope this information can be made  
24 available in response to this request; however, we  
25 take this opportunity to make clear that we will be

8 (Pages 29 to 32)



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1 making a formal written request, and if necessary  
 2 Freedom of Information Act request to obtain that  
 3 data. There seems to be some confusion on the part  
 4 of the DOE staff at this meeting as to whether that  
 5 information was actually published or whether it is  
 6 part of the unpublished data that is referenced in  
 7 the final EIS under some other heading such as  
 8 Environmental Baseline File for Transportation.

9 Comment number four regarding impact areas  
 10 and analysis of alternatives. These are general  
 11 comments for the draft EIS. The proposed draft EIS  
 12 must address all of the standard impact categories  
 13 duly covered under a NEPA analysis, (i.e. land use,  
 14 visual resources, noise, socioeconomics, cultural  
 15 resource, water resources, geology and soils, air  
 16 resources, biological resources, traffic and  
 17 transportation impacts and risks, human health and  
 18 safety, environmental justice, infrastructure issues,  
 19 waste management, etc.).

20 In addition, the draft EIS must address  
 21 impacts of the project that are derived from the  
 22 radioactive nature of the materials to be transported  
 23 and disposed of at Yucca Mountain. That is the  
 24 transportation of spent nuclear fuel and high level  
 25 radioactive waste, including the public's high

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1 site including low level radioactive waste  
 2 transportation and disposal, mixed low level waste  
 3 and hazardous waste and disposal, and transuranic  
 4 waste activities at the Nevada Test Site. Also in  
 5 the other ongoing or planned Department of Energy  
 6 programs at the Nevada Test Site, past weapons  
 7 testing activities at the Nevada Test Site,  
 8 commercial and/or private industry activities at or  
 9 near the Nevada Test Site.

10 In addition the draft EIS must look  
 11 cumulatively at the proposed action and all other  
 12 Department of Energy activities and their impacts on  
 13 ranching, mining, any planned highway or other  
 14 infrastructure activities ongoing or planned for the  
 15 area surrounding the proposed rail line and any and  
 16 all other existing or reasonably foreseeable  
 17 activities that might be a factor or be affected by  
 18 the proposed action.

19 Comment number five, impacts on ranchers and  
 20 other users of land. Ranchers who have grazing  
 21 allotments and other legitimate reasons necessitating  
 22 ongoing access to the lands impacted by the rail line  
 23 that are being built and will continue to be  
 24 substantially affected. It is instructive to note  
 25 that DOE has not, to our knowledge, in the previous

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1 perception of risk regarding things nuclear and the  
 2 possible stigmatizing effects resulting from the  
 3 proposed action.

4 The draft EIS should analyze impacts in  
 5 relation to at a minimum the proposed action and a  
 6 realistic and defensible no action alternative.  
 7 Moreover, for this analysis of the selection of a  
 8 transportation corridor the comparative impacts  
 9 associated with all five of the potential rail  
 10 corridors identified in the final EIS for the  
 11 repository must be evaluated. The analysis must be  
 12 made so as to facilitate the comparison of the  
 13 impacts of going forward with the proposed action  
 14 compared to taking no action. And if the DOE is  
 15 contemplating several different possible approaches  
 16 or courses of action, each one must be dealt with as  
 17 a discrete alternative and assessed with respect to  
 18 all impact areas in a manner that allows ready  
 19 comparisons among the alternatives and the no action  
 20 alternative.

21 Comment number five, cumulative impacts.  
 22 The draft EIS must thoroughly assess cumulative  
 23 impacts of other Department of Energy activities in  
 24 and/or near the Yucca Mountain repository site and  
 25 the transportation corridors to the Yucca Mountain

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1 20 years of studies affecting the Caliente corridor  
 2 directly informed specific affected ranchers along  
 3 the Caliente route or any other of the potential  
 4 affected rail access corridors under consideration.

5 In particular these ranchers were not  
 6 personally apprised of the exact route's impact  
 7 across their lands and possible impacts on their  
 8 livelihood in the event that that route was selected  
 9 and the land identified actually withdrawn and used  
 10 for the purposes of constructing and operating the  
 11 railroad.

12 For most, if not all of the ranchers  
 13 impacted by this action, the first formal indication  
 14 that they had of such an action being contemplated  
 15 was the December 29th Federal Register notice  
 16 announcing the Department of Energy's request to the  
 17 Bureau of Land Management to withdraw a one mile  
 18 corridor from surface entry and other users.

19 The Department of Energy has a proactive  
 20 responsibility to inform affected parties of the  
 21 contemplated action and its impacts and to seek their  
 22 input prior to making a decision regarding the  
 23 selection of a preferred corridor. In this regard we  
 24 believe that the department has been derelict in its  
 25 duties and legal responsibilities.

9 (Pages 33 to 36)

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1 The Department of Energy must also consider  
 2 in detail impacts on ranching of the construction and  
 3 operating of the proposed rail line. The proposal  
 4 for rail development along the Caliente corridor  
 5 would, in our opinion, adversely affect grazing  
 6 operations in Lincoln and Nye counties. Indeed, it  
 7 is possible that the proposed construction and  
 8 operation of the railroad is incompatible with  
 9 ranching activities as they are currently being  
 10 conducted in these counties. We believe that the  
 11 Caliente corridor would specifically and directly  
 12 impact ranching operations in Meadow Valley, Reveille  
 13 Valley, Oasis Valley and other areas.

14 The Department of Energy corridor preference  
 15 criteria as discussed in the Federal Register notice  
 16 and particularly the appointments of privately owned  
 17 land ignore the realities of ranching in Nevada.  
 18 Land ownership does not accurately reflect land use.  
 19 Most ranching operations are based upon the  
 20 combination of privately owned fee land and grazing  
 21 leases on publically owned lands. Splitting an  
 22 existing operation with a rail line that will limit  
 23 access to the leased land can have significant  
 24 adverse affects on the operation of a land whether  
 25 the ranch is located wholly or partially on privately

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1 and maintenance activities will result in impacts on  
 2 ranching well outside the identified corridor. And  
 3 here we're talking about the corridor identified in  
 4 the Department's request for land withdrawal to the  
 5 Bureau of Land Management, that is the one mile wide  
 6 corridor. Construction of a rail spur will also  
 7 likely adversely impact both paved and unpaved roads  
 8 traversed by the railroad.

9 Comment number six, impacts to mining  
 10 claims. Construction and operation of the proposed  
 11 rail line also has the potential to impact mining  
 12 claims and minerals exploration in a wide swath of  
 13 land across central Nevada. The proposed action has  
 14 the potential to cause impacts in two areas of  
 15 concern. One is the status of existing mining claims  
 16 that may be located within or in proximity to the  
 17 proposed rail line. The other is the status of the  
 18 potentially hazardous abandoned mine openings that  
 19 may exist in the rail corridor.

20 Owners of the existing mining claims in the  
 21 corridor should at a minimum be guaranteed access to  
 22 their claims and be allowed to develop them. Mineral  
 23 exploration and mining are vital to the state's  
 24 economy. The EIS must fully assess impacts on mining  
 25 and mineral exploration.

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1 owned land. If the rail line is fenced, the  
 2 splitting of ranching operations will perhaps be the  
 3 most significant impact.

4 The proposed rail line would bisect many  
 5 local roads, and grade separated crossings will be  
 6 limited to major roads creating serious access  
 7 problems. Ranching operations would be the most  
 8 affected by the barrier to movements created by the  
 9 proposed rail line. Box culverts and bridges are  
 10 commonly used to provide underpasses under railroad  
 11 tracks for the movement of livestock and equipment.

12 Underpasses would be limited to locations  
 13 where underpasses can be constructed based on the  
 14 topography and the profile of the proposed rail line.  
 15 The degree of impact is a combination of the proposed  
 16 at road crossings at grade or grade separated  
 17 crossing and proposed drainage structures. A  
 18 preliminary state analysis for the Caliente corridor  
 19 found the average distance between potential crossing  
 20 locations is 19.2 miles. The longest distance is 39  
 21 miles.

22 In addition railroad yards, borrow yards,  
 23 areas for proposal of surplus fill, staging areas,  
 24 construction camps, laydown areas, access roads to  
 25 construction initiation points and other construction

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1 It is possible that potentially hazardous  
 2 abandoned mine openings may exist within or near the  
 3 rail corridor. The Nevada legislature has charged  
 4 the State Division of Minerals with the task of  
 5 discovering and causing to be secured hazardous  
 6 abandoned mine openings within the state. In the  
 7 event that the rail line is constructed and hazardous  
 8 mining openings are discovered within the corridor,  
 9 such mines must be secured by those constructing the  
 10 rail line. At a minimum the Division of Minerals  
 11 must be given access to the corridor for the purpose  
 12 of securing such mines.

13 Comment number seven, impacts to threatened  
 14 and endangered species. The Nevada Department of  
 15 Conservation and Natural Resources, Nevada Natural  
 16 Heritage Program will be providing detailed data as  
 17 part of the State's written comments filed by the  
 18 deadline for written scoping comments for the  
 19 preparation of this draft EIS. This data will show  
 20 the known occurrences of rare and sensitive species  
 21 that may be affected if and when rail construction  
 22 occurs.

23 These data represent only records reported  
 24 to the Nevada Natural Heritage Program to date which  
 25 meet the criteria for scientific credibility and

10 (Pages 37 to 40)

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1 accuracy. They do not represent and cannot replace  
2 complete new surveys on the ground to assess the  
3 presence or absence of sensitive biological  
4 resources. There may be additional yet undocumented  
5 occurrences of these and other species of  
6 conservational concern within the proposed rail  
7 corridor since much of the affected land has never  
8 been evaluated or inventoried. A complete and  
9 thorough assessment of the flora and fauna in the  
10 rail corridor must be undertaken as part of the  
11 Environmental Impact Statement process.

12 The Nevada Natural Heritage Program is  
13 constantly incorporating new data into its databases,  
14 and that new or revised records affecting this  
15 corridor will likely be added subsequent to the  
16 attached report which is based on data input as of 28  
17 January 2004. And here I'm referring to the date  
18 that we will be submitting with our formal written  
19 documents. We will make every attempt to update that  
20 data, but it may be that the data that is submitted  
21 by June 1st, is, in fact, the January 28, 2004 data.

22 The Department of Energy must work closely  
23 with the Nevada Natural Heritage Program and the  
24 Department of Conservation and Natural Resources in  
25 conducting a new, updated, independent assessment of

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1 Most Native Americans in Nevada, based on  
2 the studies conducted by the State of Nevada, appear  
3 not to want the disturbance of cultural resources  
4 that they see as an inevitable outcome of the Yucca  
5 Mountain project and the proposed rail line.

6 The State of Nevada notes that the entire  
7 Caliente corridor, as defined in the December 29th  
8 Federal Register notice detailing the department's  
9 land withdrawal request to the Bureau of Land  
10 Management lies in its entirety within lands claimed  
11 by the Western Shoshone Nation under the Ruby Valley  
12 Treaty.

13 The Department of Energy has acknowledged  
14 that the corridor may cross traditional holy lands  
15 important to the Southern Paiute, the Western  
16 Shoshone and the Owens Valley Paiute and Shoshone  
17 peoples, and the Bonnie Claire alternative portion of  
18 the Caliente corridor near Scotty's Junction would  
19 adversely impact lands held in trust for the Timbisha  
20 Shoshone tribe.

21 According to the Department of Energy,  
22 archeological surveys have been conducted in less  
23 than one percent of the total area of the Caliente  
24 corridor, based on the discussion in the Final  
25 Environmental Impact Statement for the Yucca Mountain

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1 potential impact of species and environmentally  
2 sensitive plants. The impact on desert soils also  
3 needs to be addressed. Desert soils are fragile and  
4 can easily be damaged by human activities and the  
5 recovery of takes hundreds of years. The Department  
6 of Energy needs to evaluate the impact of  
7 construction and operation of a rail spur on  
8 ecologically sensitive soils and environmentally  
9 sensitive lands.

10 Comment number eight, impacts to Native  
11 American interests. The Department of Energy's  
12 proposal for rail development in the Caliente  
13 corridor will adversely affect the Native American  
14 interests. The proposed repository location at Yucca  
15 Mountain is known to be a very old border between the  
16 Western Shoshone and the Southern Paiute people.

17 In the immediate area are several federally  
18 recognized tribes and their reservation communities  
19 as well as other urban and rural Native American  
20 residents. And also there are organizations such as  
21 the Western Shoshone National Council, which while it  
22 is not a federally recognized tribe it is  
23 acknowledged by the state of Nevada to be an  
24 important organization representing Native American  
25 interests.

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1 repository at page 3-151. We note that the  
2 appropriate approach for conducting archeological  
3 surveys is for the entire survey, the entire corridor  
4 to be surveyed prior to the preparation of the Draft  
5 Environment Impact Statement.

6 Rail shipments to Caliente from California  
7 on the existing Union Pacific mainline to the  
8 designated junction at Caliente would traverse almost  
9 the entire length of the Moapa River Indian  
10 Reservation. All of the truck shipments, and we note  
11 that 1100 truck shipments would be required under the  
12 mostly rail scenario discussed in the Department of  
13 Energy's Final Environment Impact Statement for the  
14 Yucca Mountain repository, would also cross the Moapa  
15 River Indian Reservation on Interstate 15, and the  
16 Las Vegas Paiute Indian Reservation on US-95 would  
17 also be likely traversed by the truck shipments  
18 required under the mostly rail scenario.

19 Tribes potentially affected by the proposed  
20 Department of Energy rail line to Yucca Mountain have  
21 identified the following concerns. And these  
22 concerns are included in our statement as the State's  
23 recognition of concerns that the State has  
24 acknowledged. One, Department of Energy and Bureau  
25 of Indian Affairs' failure to date the formally

11 (Pages 41 to 44)

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1 recognized affective tribal status and provide  
 2 financial and technical assistance to the affected  
 3 tribes as is provided for under the Nuclear Waste  
 4 Policy Act of 1983 and the Amendment Act of 1987.

5 Second, protection of religious and cultural  
 6 sites and plants and animals both on and off  
 7 reservations within and near the proposed rail  
 8 corridor and along the existing rail lines that would  
 9 be used for shipments to Caliente and along the  
 10 highway corridors that would be used for truck  
 11 shipments under the mostly rail scenario.

12 Three, implications of rail spur  
 13 right-of-way acquisition for the Western Shoshone  
 14 land claims under the Ruby Valley Treaty.

15 Fourth, cultural implications of possible  
 16 radiological contamination and the cleanup activities  
 17 on tribal lands, and particularly the cultural  
 18 implications of any situation that would require  
 19 tribes or clans to reveal information about sites of  
 20 cultural and religious significance or clan  
 21 significance as part of a radiological cleanup  
 22 effort.

23 Five, the stigma impacts on tribal  
 24 businesses. Six, tribal authority to regulate  
 25 shipments across reservation lands including

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1 prenotification and monitoring and tribal roles in  
 2 emergency response planning and training.

3 We note that in various forms the Department  
 4 of Energy has stated that it does intend to involve  
 5 the tribes in transportation activities, including  
 6 prenotification. We note, however, that the  
 7 Department has not clarified the way in which it will  
 8 provide financial assistance to the affected tribes  
 9 either directly under the tribal -- directly as a  
 10 result of acknowledging formal affected tribe status  
 11 under the NWPA and the NWPAA or under section 18C  
 12 transportation provisions of the NWPA and NWPAA.

13 The Department must also thoroughly assess  
 14 impacts on rail construction and operations on  
 15 cultural resources, archeological sites, artifacts  
 16 and other historic and prehistoric occurrences within  
 17 the withdrawn land area in full compliance with part  
 18 43 of the U.S. Code.

19 Comment number nine, impacts on unique  
 20 cultural and artistic resources on private lands  
 21 adjacent or approximate to the proposed rail line.  
 22 In this comment we're referring primarily to the  
 23 impacts of the proposed land withdrawal and  
 24 subsequent rail line construction and operations on  
 25 the massive city sculpture installation being

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1 installed by world renowned land artist and sculpture  
 2 Michael Heizer.

3 This project represents more than three  
 4 decades of work and major investment of time and  
 5 resources. The complex, which is still a work in  
 6 progress, is one of the most massive sculpture  
 7 installations ever built. Land proposed for  
 8 withdrawal around the project and the rail line  
 9 eventually constructed would do irreparable damage to  
 10 the project, which was located where it is precisely  
 11 because of the very remote and isolated nature of the  
 12 area.

13 There may also be other visible and esthetic  
 14 impacts on other areas along the corridor proposed  
 15 for withdrawal. As is the case with affected  
 16 ranchers and others, the Department of Energy did not  
 17 inform Heizer or his sponsors of the plans for a rail  
 18 spur that would directly affect the project on his  
 19 privately owned land. In fact, it appears that the  
 20 Department of Energy was unaware of the existence of  
 21 this massive one-of-a-kind sculpture until after the  
 22 application for land withdrawal was submitted and the  
 23 Federal Register notice had been issued.

24 We find no evidence that the Department was  
 25 aware of Heizer's project during the preparation of

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1 the Final Environment Impact Statement, nor is the  
 2 project mentioned in the Final Environment Impact  
 3 Statement for the repository. Impacts of DOE's  
 4 proposed action to this unique and irreplaceable  
 5 cultural and artistic resource must be thoroughly  
 6 assessed in the Draft Environment Impact Statement  
 7 for the Caliente rail corridor.

8 Comment number ten, impacts on current and  
 9 future water resources, water users and water  
 10 quality. The proposed action could have significant  
 11 impacts on water resources within the area of the  
 12 rail corridor and for the stakeholders outside the  
 13 actual corridor who currently use or who might in the  
 14 future have use for such water resources. Likewise,  
 15 activities engaged in by the Department of Energy in  
 16 the course of implementing its plans for the rail  
 17 line, such as construction activities, gravel mining  
 18 and land disturbance, rail line operations, waste  
 19 disposal, etc., could have deleterious impacts on  
 20 water quality.

21 In addition the area proposed for the rail  
 22 line includes numerous spring areas which are  
 23 degraded anyway could adversely impact wet land  
 24 habitat and wildlife and livestock. All of these  
 25 impacts must be thoroughly assessed in the Draft

12 (Pages 45 to 48)

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1 Environment Impact Statement.  
 2 In this regard the Department of Energy must  
 3 also evaluate the impact of the proposed actions on  
 4 applications for water rights filed by the Southern  
 5 Nevada Water Authority with the State of Nevada water  
 6 engineer. In addition, rights of way that the  
 7 authority, and perhaps others have for future  
 8 pipeline corridors, might be transected by the  
 9 proposed rail corridor. Portions of the proposed  
 10 rail corridor include areas which could be needed for  
 11 the development of future wells to monitor  
 12 groundwater that pass through the Pahute Mesa Nuclear  
 13 blast caverns.

14 Impacts of the rail line and related land  
 15 uses on the future ability to monitor impacts on past  
 16 nuclear testing on groundwater must also be  
 17 reassessed.

18 Comment number eleven, resuspension of  
 19 radioactive particles from past fallout events. The  
 20 proposed rail corridor lies in the path of many of  
 21 the fallout clouds that left the Nevada Test Site  
 22 during atmospheric weapons testing and cratering  
 23 nuclear explosion tests. These particles, which  
 24 remain hazardous hundreds of years, lie in the soil  
 25 and will pose a hazard during any period of land

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1 disruption. That is for rail construction and  
 2 operation.

3 The railroad work will involve movement of  
 4 massive quantities of desert soils which will likely  
 5 result in some radioactive particles being lofted  
 6 into the atmosphere creating hazards for railroad  
 7 workers and the public. DOE must assess the risks of  
 8 impact associated with soils disruption and recent  
 9 studies of residual fallout particles. Thank you  
 10 very much.

11 CAROLINE FITZPATRICK: We have over a  
 12 hundred miles of Highway 95 that is in our county,  
 13 and if you're going to move, or when it is moved, I  
 14 believe that Esmeralda County should take a greater  
 15 part in it. We can use the financial assistance in  
 16 central Nevada.

17 And for the employment and the betterment of  
 18 the county, mining is down. And whether it's  
 19 trucking or railroad, I feel either highway or the  
 20 other would be an improvement. I think that it is  
 21 inevitable. I feel the county should benefit from it  
 22 coming through here.

23 MR. ANY MOUSE: These meatheads don't  
 24 understand that Jackass Flats has been used to set  
 25 off atomic explosions since I've been in high school

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1 and that the ground is as hot as a pistol down there  
 2 really are against a situation that already exists,  
 3 that by storing hot material at Yucca Mountain you're  
 4 not really doing anything against what already  
 5 exists.

6 (Thereupon the proceedings  
 7 were concluded at 8:00 p.m.)  
 8 \* \* \* \* \*

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1 CERTIFICATE OF REPORTER  
 2 STATE OF NEVADA )  
 3 SS:  
 4 COUNTY OF CLARK. )

5 I, Deborah Ann Hines, certified shorthand  
 6 reporter, do hereby certify that I took down in  
 7 shorthand (Stenotype) all of the proceedings had in  
 8 the before-entitled matter at the time and place  
 9 indicated; and that thereafter said shorthand notes  
 10 were transcribed into typewriting at and under my  
 11 direction and supervision and the foregoing  
 12 transcript constitutes a full, true and accurate  
 13 record of the proceedings had.

14 IN WITNESS WHEREOF, I have hereunto affixed  
 15 my hand this 7th day of May3, 2004.  
 16  
 17  
 18

19 \_\_\_\_\_  
 20 Deborah Ann Hines, CCR #473  
 21  
 22  
 23  
 24  
 25